

Minutes of the Special and Regular Meeting of September 26, 2006

One Twin Pines Lane, Belmont, California

SPECIAL MEETINGS

CLOSED SESSION - 6:15 P.M.

- A. Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), pending litigation: Superior Court Case #455100
- B. Conference with Legal Counsel pursuant to Government Code Section 54956.9, potential litigation: One Case
- C. Conference with Labor Negotiator, Terry Belanger, pursuant to Government Code Section No. 54957.6: BPOA

Attended by Councilmembers Feierbach, Warden, Dickenson, Mathewson, Interim City Manager Belanger, City Attorney Zafferano, Community Development Director de Melo (Item B only), Public Works Director Davis (Item B only). Councilmember Lieberman was absent. City Clerk Cook was excused from attending. Item C was not considered.

ADJOURNMENT at this time, being 7:20 P.M.

Terri Cook

City Clerk

This meeting not tape recorded or videotaped.

REGULAR MEETING - 7:30 P.M.

ROLL CALL

COUNCILMEMBERS PRESENT: Feierbach, Dickenson, Warden, Mathewson

COUNCILMEMBERS ABSENT: Lieberman

Staff Present: Interim City Manager Belanger, City Attorney Zafferano, Community Development Director de Melo, Police Chief Mattei, Public Works Director Davis, Assistant Finance Director/Controller Cheung, City Clerk Cook.

REPORT FROM CLOSED SESSION

Mayor Mathewson stated that direction was given but no action taken at the Closed Sessions held earlier. He noted that Item C (BPOA Negotiations) was not discussed.

SPECIAL PRESENTATIONS

Demonstration of on-line City Council document search program

City Clerk Cook demonstrated the use of the new program that is now available through the City's website as a tool to search minutes, resolutions, and ordinances that have been imported and scanned in a searchable format. She stated this is ongoing project has been accomplished through a cooperative effort between the City Clerk's office, Informational Services, and student interns from Notre Dame de Namur University.

PUBLIC COMMENTS AND ANNOUNCEMENTS

Richard Katz, Richmond, California, displayed a device he designed as a way to display public art on light poles. He described the invention. He commented that people like to see art, and this armature provides a neat, clean and tidy way to display art. Displays can be changed often.

Mary Ridge, Belmont resident, stated that a neighbor has been using her side yard to store his RV. She noted that the CERT (Citizens Emergency Response Team) also has a storage shed in the same area. She stated she has recently been cited for the RV storage. She described previous citation problems she has experienced over the years on a number of other issues.

Donald Wood, Belmont resident, stated he has stored his RV in Mrs. Ridge's yard for the past seven years.

Dianne Keogh, Belmont resident, stated that she lives adjacent to the new Belameda Park. She commented that the new park is beautiful, but she and her neighbors are experiencing noise issues not present before. She is often unable to use her balcony because of the echoing noise. She recommended installing a sound wall or some other means of cutting down the noise.

Laura Peters, Belmont resident, requested consideration of paving of Laurel Avenue, which is in disrepair.

Grace Gagnier, Belmont resident, stated that Laurel Avenue was last paved in 1971. It experiences much traffic and is heavily used, especially as a cut-through.

Councilmember Warden noted that this street is on the list for future reconstruction.

Risa Horowitz, Belmont resident, thanked Information Services Manager Harnish for her efforts in getting Council meetings webstreamed. She noted that she does not have Comcast and therefore has been unable to watch the Council meetings on TV. She commented that the quality of the picture is good.

Cori McKenzie, Central School Principal, requested consideration of the installation of a guardrail at the school to prevent a similar accident as what transpired recently. She noted that the Council will be considering this item later in the agenda.

Kim Collins, Belmont resident, stated she was present and witnessed the accident noted by Mrs. McKenzie. She also requested consideration of a guardrail.

COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS

Mayor Mathewson announced that the Belmont Festival would be held on September 30th and October 1st in TwinPines Park.

Mayor Mathewson presented a Proclamation entitled “One Book/One Community” as requested by the Belmont Library staff.

Linda Chiochios, Belmont Library Branch Manager, stated that this Proclamation was a testament to an ambitious set of events. She noted there would be an author discussion held at the San Mateo Performing Arts Center on October 19th. She announced ongoing events at the Belmont Library resolving

around Afghani life and culture. She noted that these events would not have been possible in the old library.

AGENDA AMENDMENTS

Mayor Mathewson stated that Councilmember Lieberman was not present, but would be arriving later. He noted that the Consent Calendar includes the Slope/Density Ordinance, for which two of the Councilmembers are recused. Councilmember Lieberman's vote is necessary for the ordinance to be enacted at this second reading.

City Attorney Zafferano stated that the entire Consent Agenda could be postponed until later, or the Slope/Density Ordinance could be pulled for separate consideration after the arrival of Councilmember Lieberman, and the remainder of the Consent Agenda approved now.

ACTION: On a motion by Councilmember Warden, seconded by Councilmember Dickenson, and unanimously approved by a show of hands (4-0, Lieberman absent) to postpone the Consent Calendar to later in the agenda.

HEARINGS

Ordinance adding Chapter 2, Article XI to the Municipal Code, Procedure and Limitations Period for Filing Claims

City Attorney Zafferano stated that State law enables cities to set shorter time limits for filing claims against the entity. He noted that many cities are enacting similar ordinances.

Mayor Mathewson opened the Public Hearing. No one came forward to speak.

ACTION: On a motion by Councilmember Warden, seconded by Councilmember Dickenson, the Public Hearing was unanimously closed by a show of hands (4-0, Lieberman absent).

ACTION: On a motion by Councilmember Warden, seconded by Councilmember Dickenson, and unanimously approved by a show of hands (4-0, Lieberman absent) to introduce an ordinance adding Chapter 2, Article XI to the Municipal Code, Procedure and Limitations Period for Filing Claims, to waive further reading, and to set the second reading and adoption for October 10, 2006.

Ordinance amending Chapter 2, Article 7 of the Municipal Code governing Finance Commission, and Resolution amending Financial Policies

Assistant Finance Director/Controller Cheung stated that the changes to the duties of the Finance Commission addressed in this ordinance, including the removal of the audit committee provisions, were discussed at the August Joint Meeting with the Finance Commission. He noted that the proposed resolution will amend the City's financial policies.

Mayor Mathewson opened the Public Hearing. No one came forward to speak.

ACTION: On a motion by Councilmember Warden, seconded by Councilmember Dickenson, the Public Hearing was unanimously closed by a show of hands (4-0, Lieberman absent).

ACTION: On a motion by Councilmember Warden, seconded by Councilmember Dickenson, and unanimously approved by a show of hands (4-0, Lieberman absent) to introduce an ordinance amending Chapter 2, Article 7 of the Municipal Code governing Finance Commission, to waive further reading, and to set the second reading and adoption for October 10, 2006.

ACTION: On a motion by Councilmember Warden, seconded by Councilmember Dickenson, Resolution 9814 Amending Financial Policies was unanimously closed by a show of hands (4-0, Lieberman absent).

OLD BUSINESS

Discussion and Direction on Future Solid Waste, Recycling, and Organics Collections Programs and Future South Bay Waste Management Authority Franchise Agreement

Public Works Director Davis stated that Council direction was being sought regarding a variety of operations and performance standards in preparation for a future franchise agreement for solid waste collection.

Councilmember Feierbach expressed concern regarding the effect this issue may have on trash rates. She noted that the committee does not provide for an elected official as a member, which is desired by this Council.

Public Works Director Davis stated that performance issues and the rate structure are separate issues. He acknowledged Council's desire to have elected officials sit as committee members.

In response to Councilmember Dickenson, Public Works Director Davis clarified that the current franchise expires on December 31, 2010. He stated that the Joint Powers Agreement (JPA) would need to be reviewed to ascertain how to legally withdraw prior to the expiration of the JPA, should that be the desire.

Councilmember Dickenson expressed his opposition to the current JPA structure.

Councilmember Warden stated he would not support anything that would result in an increase in rates. Rates are out of control. There should be more than a one percent savings for a fully-automated system. He also stated he continues in his desire to have an elected official sit as a board member. He recommended that Council of Cities discuss this matter as well.

Councilmember Feierbach stated that Allied Waste is blaming the City for the recent rate increase. She supports looking into withdrawal from the SBWMA.

Stacey Wagner, Allied Waste Services, stated that Allied recommended against the 26 percent rate increase. She noted that options for the rate structure were developed by an independent consultant. Talking points were provided to answer questions regarding the raise in rates. Allied's annual operating costs increased by seven percent. The remaining increase included Belmont's street sweeping costs, and fees of 19.8 percent for vehicle impact and other costs. She acknowledged the frustration resulting from the large fee increase.

Councilmember Lieberman arrived at 8:45 P.M.

Councilmember Feierbach stated that due to interest fees, the one-time rate increase of 26 percent is cheaper to rate payers. There are also service issues to address. She does not support any additional cost over the base.

Mayor Mathewson noted that the fee structure provides for small cans for those with not much trash, and he encouraged residents to look into this. He also noted he could support some of the proposed items.

Risa Horowitz, Belmont resident, encouraged the Council to think outside the box. She noted that Stanford has received recycling awards. Garbage companies make money on recyclables.

Public Works Director Davis stated he would share the Council's comments with SBWMA. He stated that there is no guarantee that trash rates will not go up on the future. He noted that this is the last agency to be using two-man trucks.

Mayor Mathewson said it is not a matter of not wanting some of the programs, but of rejecting items that we are not willing to pay for.

Councilmember Feierbach noted that the cities owe money for the facility.

CONSENT CALENDAR (postponed from earlier in the evening)

City Attorney Zafferano advised that the two recused Councilmembers could state their recusal on the Slope/Density ordinance for the record without removal of the item, or it could be taken up separately.

Councilmembers Feierbach and Warden stated they were recused from the Slope/Density Ordinance item because they lived within 500 feet of an affected parcel. They stepped off the dais and out of the room.

ITEMS APPROVED ON CONSENT CALENDAR

Minutes of Special Meeting of July 31, 2006 (closed session)

Ordinance 1019 Amending Zoning Ordinance regarding establishment of a slope/density requirement for new subdivisions in the R-1A, R-1B, and R-1C (single family residential) zoning districts (2nd reading and adoption)

Ordinance 1020 amending Chapter 2-162 of the Belmont Municipal Code Relating to Planning Commission Call Up Authority (2nd reading and adoption)

Resolution 9811 Approving a Permanent Encroachment Agreement for Replacing an Existing Retaining Wall within the Public Right-of-Way at 1815 Hillman Avenue (APN 044-123-280)

Resolution 9812 Approving Plans and Specifications, Authorizing Advertisement for Sealed Bids, Approving Award of Contract to the Lowest Responsible Bidder for an Amount not to Exceed \$520,000, Approving a Construction Contingency Not to Exceed \$52,000, and Authorizing the City Manager to Execute a Contract for Sanitary Sewer Rehabilitation Hastings Drive and Haskins Drive Pump Stations, City Contract No. 467

Resolution 9813 Approving Conflict of Interest Code

ACTION: On a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, the Consent Agenda was unanimously approved by a show of hands (3-0, Warden/Feierbach absent/recused).

Councilmembers Warden and Feierbach returned to the dais.

MATTERS OF COUNCIL INTEREST/CLARIFICATION

Consideration of resolution in opposition to Proposition 90 (Feierbach)

Councilmember Feierbach requested Council consideration of a resolution opposing Proposition 90. She noted that the County of San Mateo and the City of San Mateo have adopted similar resolutions.

Council concurred to place this resolution on the agenda of October 10, 2006.

Consideration of readopting non-aggressive annexation resolution for HIA (Warden)

Councilmember Warden requesting consideration of readopting a similar resolution to the one adopted in 2001.

Councilmember Lieberman stated that ongoing discussions with the Harbor Industrial Area have been good. He noted there are some disagreements, but the issue continues to move forward. He believes that 80 percent of the owners concur that annexation would be a good thing, but there are still issues to address. He expressed his support for the resolution.

Councilmember Feierbach indicated her support for the resolution.

Mayor Mathewson stated that the resolution is in the spirit of the recent Study Session held on this matter. He noted that Proposition 90 may be a factor for this property.

Councilmember Dickenson stated that annexation is a business decision, and emotion should be removed from the issue. He will support the consensus regarding the resolution.

Council concurred to place a resolution on the agenda of October 10, 2006.

Discussion and possible reconsideration of garbage rate increase (Warden)

Councilmember Warden stated that the biggest issue with the rate increase was no notification. Allied Waste's staff has been advising those complaining that the increase was the City Council's fault. Services has deteriorated, streets have been missed in garbage pickup, which is unacceptable. A co-signed letter is needed to explain the rate increase.

Councilmember Feierbach stated that the explanation provided by City Engineer Phalen made the issue very clear, and people understand it once they hear it. She noted that the increase could have been spread out over several years, but the rate payers would have paid more than the one-time increase of 26 percent in the long run.

Mayor Mathewson read City Engineer Phalen's explanation.

Councilmember Dickenson noted that he questioned the rate increase at the time, and he voted no because more information was needed. He noted there are service issues. He recommended getting to a pay-as-you-go rate before the expiration of the franchise agreement in 2010. He supports re-reviewing this matter.

Mayor Mathewson noted that some people have indicated that service has improved with the new schedule.

Councilmember Feierbach expressed her continued desire to set aside the rebate for other things.

Councilmember Lieberman expressed his support for revisiting this issue. He noted that many people have asked him about the rate increase, and once he explained the reasons, they understand. Service issues need to continue to be addressed, and a letter regarding the rate increase may further address questions. He noted that if the rebate is returned to ratepayers, it may not go to those who paid it in the first place.

Councilmember Warden stated that an explanatory letter should be sent prior to the next billing cycle in December, and Allied Waste should cover the cost, not the City. Trust is eroded if we wait too long. He noted that although well-intentioned, the rate increase may not be much different if spread over four years.

Stacey Wagner, Allied Waste, stated that she had offered to help draft the letter, but could not make a 25 percent increase palatable. Allied is not responsible for the rate increase, and the bulk of the increase was from City fees.

Council concurred to have a letter sent to trash rate payers with the next billing cycle.

Consideration of Ordinance declaring second-hand smoke a public nuisance (Feierbach)

Councilmember Feierbach requested consideration of an ordinance similar to one recently adopted by the City of Dublin. She noted that their ordinance does not provide for any City resources to enforce, but provides for civil action for those harmed by second-hand smoke.

Becky Husman, representing her father at Bonnie Brae Terrace, expressed her support for this ordinance to protect health and to provide for fair conflict resolution. She noted that nonsmokers at Bonnie Brae have had to adjust their lifestyles, not the smokers. She stated that Dublin just recently enacted its ordinance. She commented that the State of Utah has enacted similar legislation.

Councilmember Dickenson stated he recently discussed this issue with a smoker who supported a similar ordinance.

Councilmember Lieberman expressed his desire to wait until Dublin has some experience with their new ordinance. He expressed concern regarding lawsuits. This could have an impact on apartment dwellers by forcing people to leave or criminalizing smoking. He noted any issues arising in Dublin may likely be reported in the newspapers.

City Attorney Zafferano stated that there may not be any data to capture from Dublin since that city is not doing any enforcing, since it is strictly a civil matter. He noted this is a policy decision.

Councilmember Warden noted that all members of the City Council live in single-family homes, and this ordinance is a tool for multi-unit complexes. Some people cannot afford to live elsewhere. This ordinance may save lives as it may force smokers to quit or limit smoking.

Council concurred to agendaize this at a future meeting.

Consideration of creation of a Pedestrian, Bicycle, and Parking Subcommittee (Dickenson)

Councilmember Dickenson stated that a new resident expressed concerns regarding the condition of sidewalks. He noted this is an ADA (Americans with Disabilities Act) issue.

Councilmember Feierbach stated that the Planning Commission recommended holding off on decisions related to sidewalks in the downtown until the downtown plan can be revisited. She noted she does not like to have too many subcommittees to address issues that the entire Council should be addressing.

Councilmember Dickenson noted that this issue could be consolidated with other issues such as crosswalks, parking, and a subcommittee could be effective for this.

Councilmember Warden stated that this is a Planning Commission project which involves land use. He noted that much has been accomplished recently on a variety of issues and projects. He expressed concern regarding staff time on other issues already under way.

Discussion ensued.

Mayor Mathewson stated that this is something the infrastructure subcommittee could address. Councilmember Dickenson responded that information needs to be reported back to the Council.

Councilmember Warden stated this is a project, not a subcommittee issue. It involves downtown circulation. He recommended placing this item on the Priority Calendar for future consideration.

Council concurred to add this to the Priority Calendar.

Develop an e-mail distribution list capability that the City Manager can use to distribute information to interested Belmont residents (Lieberman)

Councilmember Lieberman stated this issue arose as a result of the trash rate increase. He would like to find ways to get information out to people, and would like to explore effective means of notification of important matters beyond just City Council agendas.

Councilmember Feierbach outlined the List Serv program available through the City's website. She expressed concern as to who decides what is important.

Councilmember Dickenson advised that the City of Burlingame is testing a new notification program.

Risa Horowitz, Belmont resident, commented regarding the information received through List Builders.

Mayor Mathewson stated that any new program would involve staff resources. More information is needed regarding this issue. He recommended that staff discuss this matter further.

MEETING EXTENSION at this time, being 10:30 p.m., on a motion by Councilmember Dickenson, seconded by Councilmember Lieberman, the meeting was unanimously extended for 30 minutes by a show of hands.

Consideration of Guardrail or Similar Vehicle Restraint at Central School on Middle Road(Feierbach)

Councilmember Feierbach stated that something should be done to prevent a potential problem at Central School. She described an incident that occurred recently regarding a runaway vehicle.

Public Works Director Davis noted that anything constructed to address this issue would need to occur within the right-of-way, and could be costly. He noted this is beyond the 40 hours threshold for Priority Calendar issues. A guardrail may not be the appropriate resolution, as they are designed to control the lane of travel only.

John Violet, Belmont resident, stated he lives nearby and noted this is the first accident of this kind. The accident was caused by a driver abandoning a vehicle on a hill without setting the break. Speed is not an issue in this area, but congestion is.

Mayor Mathewson stated this is a potentially serious issue that needs to be addressed.

ADJOURNMENT at this time, being 10:40 p.m.

Terri Cook

Belmont City Clerk

Meeting Tape Recorded and Videotaped
Audio Recording 645
Minutes approved 10/24/2006